



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 482

CMS-1599-F2

RIN 0938-AR53

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects technical errors in the final rule that appeared in the August 19, 2013 **Federal Register**, entitled “Medicare Program: Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status.”

DATES: This correcting amendment is effective [insert date of filing for public inspection].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2013-18956 which appeared in the August 19, 2013 final rule entitled “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Payment Policies Related to Patient Status” (78 FR 50495) (hereinafter referred to as the FY 2014 IPPS/LTCH PPS final rule) there was a technical error that is identified and corrected in the regulations text of this correcting amendment.

II. Summary of Errors in the Regulations Text

On page 50906 of the FY 2014 IPPS/LTCH PPS final rule in our discussion of the change to the Medicare Hospital Conditions of Participation (CoPs) relating to the administration of pneumococcal vaccines, we stated that we were finalizing our proposal to remove the term "polysaccharide" from the regulatory language at §482.23(c). Therefore on page 50970 in the amendatory instructions for §482.23, we stated that we were revising paragraph (c)(3). In stating that we were revising paragraph (c)(3), we revised the language to remove the term "polysaccharide," but we also removed paragraphs (c)(3)(i), (ii), and (iii). To correct this error, in the regulations text of this correcting amendment, we are adding the inadvertently removed paragraphs (that is, paragraphs (c)(3)(i) through (c)(3) (iii)).

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in

accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

In our view, this correcting amendment does not constitute a rule that would be subject to the APA notice and comment or delayed effective date requirements. This correcting amendment corrects a technical error in the regulation text, but does not make substantive changes to the policy regarding the CoPs relating to the administration of pneumococcal vaccines that was adopted in the final rule. As a result, this correcting amendment is intended to ensure that the regulations text at §482.23(c) accurately reflects the policy adopted in that final rule.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to have access to the appropriate regulations text in as timely a manner as possible, and to ensure that the FY 2014 IPPS/LTCH PPS final rule accurately reflects our CoPs relating to the administration of pneumococcal vaccines policy. Furthermore, such procedures would be unnecessary, as we are not altering our policy, but rather we are simply providing the corrected regulations text that we previously proposed, received comment on, and subsequently finalized. This correcting amendment is intended solely to ensure that the

FY 2014 IPPS/LTCH PPS final rule accurately reflects this policy. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

List of Subjects in 42 CFR Part 482

Grant programs, Health, Hospitals, Medicaid, Medicare, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to part 482:

PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

1. The authority citation for part 482 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr), unless otherwise noted.

2. In §482.23, revise paragraph (c)(3) to read as follows:

§ 482.23 Condition of participation: Nursing services.

* * * * *

(c) * * *

(3) With the exception of influenza and pneumococcal vaccines, which may be administered per physician-approved hospital policy after an assessment of contraindications, orders for drugs and biologicals must be documented and signed by a

practitioner who is authorized to write orders in accordance with State law and hospital policy, and who is responsible for the care of the patient as specified under § 482.12(c).

(i) If verbal orders are used, they are to be used infrequently.

(ii) When verbal orders are used, they must only be accepted by persons who are authorized to do so by hospital policy and procedures consistent with Federal and State law.

(iii) Orders for drugs and biologicals may be documented and signed by other practitioners not specified under § 482.12(c) only if such practitioners are acting in accordance with State law, including scope-of-practice laws, hospital policies, and medical staff bylaws, rules, and regulations.

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(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance Program)

Dated: July 24, 2014

C'Reda Weeden,

Executive Secretary to the Department

Department of Health and Human Services.

BILLING CODE 4120-01-P

[FR Doc. 2014-17937 Filed 07/29/2014 at 8:45 am; Publication Date: 07/30/2014]